IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No. 20535 of 2004

Between:

Ch. Krishnamma, W/o. Venkat Rami Reddy,
aged 30 years, Fair Price Shop Dealer,

Vemula - Village, Mundlamur Mandal,
Prakasam District.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Kandukur, Prakasam District.
2 The Mandal Revenue Officer, Mudlamur, Mundlamur Mandal,

Prakasam District.
3 Nallagatla Lakshmi, D/o. Eswarachari,

Aged 22 years, Vemula village,
Mundlamur Mandal, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass orders, particularly one in the nature of the Writ of Mandamus, declaring the action of the 1st respondent in not conducting the enquiry proceedings and continuing the 3rd respondent as temporary dealer as arbitrary, illegal, mala fide, discriminatory, and violative of Articles 14 and 21 of the constitution of India, and consequently direct the 1st respondent to complete the enquiry forthwith and restore the dealership to the petitioner.

Counsel for the Petitioner: MR.KASAJAGANMOHAN REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR CIVIL SUPPLIES

Counsel for the Respondent No.3: Mr.M.V.SUBBARAO

The Court at the admission stage made the following:

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ORDER:

The petitioner is an authorized dealer of the fair price shop of Vemula village of Mundlamur Mandal. Her authorization was suspended pending enquiry by the

1st respondent/Revenue Divisional Officer, Kandukur, by proceedings dated 03.08.2004 on the allegation that the petitioner has diverted 148 bags of PDS rice to black market. Aggrieved by the said order, the petitioner preferred an appeal before the Joint Collector, Prakasam District. The Joint Collector, having entertained the appeal, by order dated 13.08.2004, while rejecting the request of the petitioner for stay of the operation of the order dated 3-8-2004 made it clear that no temporary dealer shall be appointed in the meanwhile and directed the Revenue Divisional Officer, Kandukur to attach the fair price shop in question to the adjacent dealer or to take up the distribution of essential commodities departmentally.

2. Challenging the said order of the Joint Collector, Ongole, dated 13.08.2004, the petitioner filed W.P.No.14555 of 2004 before this Court, and this Court disposed of the said writ petition by order dated 17.08.2004, with a direction to the Joint Collector, Prakasam

District, to dispose of the appeal as expeditiously as possible, preferably within a period of four weeks. In pursuance thereof, the Joint Collector, Prakasam District, passed an order dated 04.10.2004, remanding the matter to the Revenue Divisional Officer, Kandukur for detailed enquiry with a direction that the enquiry shall be completed within a period of two weeks after giving reasonable opportunity of personal hearing to the petitioner. The Joint Collector by order dated 13.09.2004 has reiterated that the orders of the Revenue Divisional Officer, Kandukur, appointing temporary dealer if any shall stand suspended. Now this writ petition is filed aggrieved by the inaction on the part of the 1st respondent/Revenue Divisional Officer, Kandukur in not completing the enquiry within the time specified by the Joint Collector, Prakasam District.

3. Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies, appearing on behalf of respondents 1 and 2, as well as the learned counsel for the 3rd respondent.

4. The learned counsel for the petitioner contends that the allegation against the petitioner that she is guilty of diversion of 148 bags of PDS rice to black market, is incorrect and baseless. It is also contended that at the instance of the third respondent who is being continued as a temporary dealer, the respondents 1 and 2 have been delaying the enquiry, and in spite of the orders of the Appellate Authority, the enquiry has not been completed so far. That apart, in spite of the specific directions from the Joint Collector, the 3rd respondent is still being continued as a temporary dealer.

5. The learned Government Pleader for Civil Supplies, appearing on behalf of respondents 1 and 2, under instructions, states that the enquiry has not yet been completed. The learned counsel, appearing on behalf of the 3rd respondent, has not disputed the fact that the order of the Joint Collector, Prakasam District, dated

13.09.2004 has become final.

6. Having regard to the specific directions of the Joint Collector, Prakasam District, who is the appellate authority, I find force in the contention of the learned counsel for the petitioner that the 1st respondent is not justified in not completing the enquiry so far and in continuing the third respondent as temporary dealer. The 1st respondent is bound by the directions issued by the Joint Collector, Prakasam District, dated 04.10.2004, wherein the enquiry was directed to be completed within two weeks. The action of the respondents 1 and 2 in continuing the third respondent as temporary dealer is also in clear violation of the orders of the Joint Collector, dated 13.08.2004 and 13.09.2004.

7. In the circumstances, the Writ Petition is disposed of, with a direction to the 1st respondent to complete the enquiry, in terms of the directions of the Joint Collector, Prakasam District, dated 04.10.2004, within two weeks from the date of receipt of a copy of this order without fail. The respondents
1 and 2 are also directed to implement the orders of the Joint Collector, Prakasam District, dated 13.08.2004 and 13.09.2004 forthwith.

8. The Writ Petition is accordingly disposed of. No costs.

Note:

Issue CC in two days.

B/o.

Dsr

ASSISTANT REGISTRAR

To:

1. The Revenue Divisional Officer,
Kandukur, Prakasam District

2. The Mandal Revenue Officer,
Mundlamur, Mundlamur Mandal,
Prakasam District

3. Two CCs to the Government Pleader
for Civil Supplies, High Court Buildings,
Hyderabad(OUT)

4. Two CD copies.